

REMARKS

This amendment is intended as a full and complete response to the non-final Office Action dated September 8, 2005. In the Office Action, Claims 1-23 are pending of which Claims 1, 2, 4-6, 12-15, 19 and 20 are rejected, and Claims 3, 7-11, 16-18 and 21-23 are objected to. By this amendment, Claims 1, 12 and 19 have been amended, new Claims 24-27 have been added, and Claims 3-11, 13-18 and 20-23 continue unamended.

Presently, the Applicant's legal representatives from the law firm of Andrus, Sceales, Starke & Sawall, LLP, have power of attorney to prosecute this patent application. Further, the Applicant's legal representatives with the law firm of Abelman, Frayne & Schwab have also been provided with power of attorney to prosecute this application, as provided by an Associate Power of Attorney executed by the representatives of Andrus, Sceales, Starke & Sawall, LLP. A copy of the Associate Power of Attorney is attached with this response for the record.

In view of both the amendments presented above and the following discussion, the applicants submit that none of the claims now pending in the application are anticipated under 35 U.S.C. § 102. Thus, the Applicant believes that all of these claims are now in allowable form.

OBJECTIONS

A. Allowable Subject Matter:

The Examiner has objected to Claims 3, 7-11, 16-18 and 21-23 as being dependent upon a rejected base claim. The Examiner concludes that these claims would

be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

The indication of the allowable subject matter with respect to these claims is acknowledged. However, in view of the amendments and discussions set forth herein, the Applicant believes base Claims 1, 12 and 19 (and all intervening claims) are in allowable form and, as such, the dependent Claims 3, 7-11, 16-18 and 21-23, as they stand, are therefore in allowable condition. Therefore, withdrawal of the objection to Claims 3, 7-11, 16-18 and 21-23 is respectfully requested.

B. In the Specification:

In the Office Action, the use of the trademark Hydra-Trac was objected to for not being capitalized. In the specification, on page 4, line 21, the trademark “Hydra-Trac®” has been changed to “HYDRA-TRAC”. Therefore, withdrawal of the objection to the specification is respectfully requested.

C. Telephone Conference with the Examiner:

On Tuesday, December 6, 2005, the Applicants’ representatives, Joseph J. Catanzaro and Steven M. Hertzberg conducted a telephone interview with the Examiner to discuss proposed amendments to the claims. During the interview, it was agreed that the independent claims incorrectly recited that the first (male) constraint device is rotatable relative to the second (female) constraint device. Accordingly, independent Claims 1, 12 and 19 were amended to correct the rotational relationship between the first and second constraint devices.

In particular, Claim 1 (and similarly, claims 12 and 19) has been amended to recite that the second (female) constraint device is rotatable relative to the first (male) constraint device. The relative rotational relationship between the constraint devices is fully shown in FIG. 3-7 and the accompanying text in the specification on page 7, line 9 to page 8, line 24. It is submitted that the amendment to the claims does not add any new subject matter.

REJECTIONS

35 U.S.C. § 102:

Claims 1, 2, 4-6, 12-15, 19 and 20 have been rejected under 35 U.S.C. § 102 with regard to U.S. Patent No. 2,334,312 to Caldwell. The rejection is respectfully traversed.

Independent Claims 1, 12 and 19 have been amended to further clarify the inventive features. In particular, Claim 1 (and similarly, independent Claims 12 and 19) recites:

“A restraining arrangement for limiting the separation between a feed table having a pivot pin mounted thereto and a positioner block of a mobile track drill, the arrangement comprising:
a first constraint device secured to the positioner block; and
a second constraint device secured to the feed table and configured to receive and retain the first constraint device, such that the second constraint device is rotatable relative to the first constraint device.” (Emphasis added).

As a preliminary matter, we believe that it would be helpful to review the appropriate standard under 35 U.S.C. § 102 for analyzing the features of a claim with respect to the prior art. It is well settled that “[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention,

arranged as in the claim” (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984)(citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). The cited reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

The Caldwell patent discloses:

[i]n order to connect the swivel head with the bar 72, the bar has ears 93 and 94 provided with bearing openings 95 and 96 corresponding to the arcuate edges of the trunnions 88 and 89. Intersecting the bearing openings are lateral slots 97 and 98 having width corresponding to the narrower width of the trunnions so that when the swivel head is moved to a substantially horizontal position the trunnions will pass readily through the slots 97 and 98 and enter the bearing opening 95 and 96. Then when the swivel head is moved to vertical position, the trunnions oscillate in the bearing openings to be retained therein as long as the swivel head is in vertical position. (See Caldwell, col. 4, lines 40-54, and FIGS. 3-5).

The Caldwell patent fails to teach, or even suggest, “a second constraint device secured to the feed table and configured to receive and retain the first constraint device, such that the second constraint device is rotatable relative to the first constraint device.” Referring to FIGS. 4 and 5 of Caldwell, the trunnions 88 and 89 are inserted into the corresponding grooves 96 and 97 of ears 94 and 95, respectively. The arrangement of the ears 94 and 95 and associated grooves 96 and 97 represent the second or female constraint device. The trunnions 88 and 89 represent the first or male constraint device. Caldwell teaches that the first or male constraint device (i.e., trunnions 88 and 89) rotate relative to the second or female constraint device (i.e., ears 94 and 95 with associated grooves).

In contrast, the Applicants claim that their invention includes the feature that “the second constraint device (e.g., female constraint members 138) is rotatable relative to the first constraint device (e.g., ears 128).” Referring to FIGS. 3-7 of the Applicants’ specification, the ears 128 of the bushing 118 are secured to the positioner block 30. Moreover, the ears 128 are inserted into the circular grooves 140 formed in the second constraint device 138. Since the ears 128 (first constraint device) is fixedly attached to the positioner, the first constraint device cannot rotate. Rather, it is the second constraint device 138 along with the feedtable that rotates relative to the first constraint device and positioner. Support for this rotational relationship is provided in the specification on page 7, line 9 to page 8, line 24 and FIGS. 3-7, as discussed above. Therefore, the Caldwell patent fails to teach or disclose each and every element of the claimed invention, as arranged in the claim.

As such, it is respectfully submitted that independent Claims 1, 12 and 19 are patentable under 35 U.S.C. § 102. Furthermore, Claims 2-11, 13-18 and 20-23, as well as new claims 24-27 depend, either directly or indirectly from independent Claims 1, 12 and 19 and recite additional inventive features. As such, it is submitted that these dependent claims are patentable under 35 U.S.C. § 102. Withdrawal of the rejections under 35 U.S.C. § 102 is respectfully requested.

Conclusion

In view of both the amendments and discussion presented herein, it is respectfully submitted that the present Amendment responds to all of the issues raised in the Office Action. Thus, it is submitted that Claims 5-7, 18, 19, 26-30 and 36-38 are in condition for allowance. Accordingly, reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues in any of the claims now pending in the application, we respectfully request that the Examiner telephone Mr. Joseph J. Catanzaro at (212) 949-9022 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

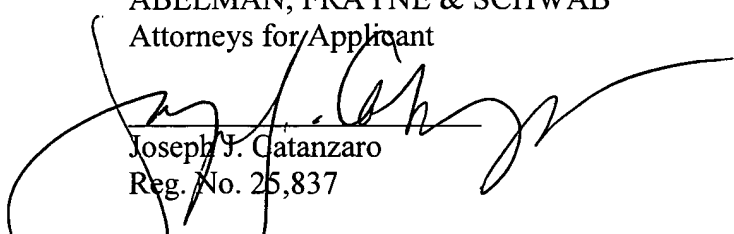
The Commissioner is hereby authorized to charge any fees, or to credit any overpayment, due by reason of this Amendment to Deposit Account No. 01-0035.

Please note the new address set forth on the concurrently-filed Change of Address notice. The Examiner's assistance is respectfully requested in assuring that the new address (which also appears below) is entered in the Office records for all future correspondence.

All correspondence should continue to be directed to the address below.

Respectfully submitted,

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